

**COPY**

SLM:sd 102 275 061

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

**RECEIVED**  
JUN 5 2001

Illinois Commerce Commission  
RAIL SAFETY SECTION

**THE DEPARTMENT OF TRANSPORTATION )  
OF THE STATE OF ILLINOIS, for and in )  
behalf of the People of the State of Illinois, )**

**Petitioner, )**

**vs. )**

**TP & W ACQUISITION CORPORATION, )**

**Respondent. )**

**No. 01-T-0036**

**(Parcels 407H206PE and 407H206TE)**

**AMENDED PETITION FOR APPROVAL TO TAKE PROPERTY**

NOW COMES THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF ILLINOIS, Petitioner, by JAMES E. RYAN, ATTORNEY GENERAL and STANLEY L. MORRIS, Special Assistant Attorney General, and for its Amended Petition for Approval to Take Property states:

1. Petitioner has engaged in the construction, operation and maintenance of FA Route 317 (US 24), a State highway under the control and jurisdiction of Petitioner, in Peoria County, Illinois, under and by virtue of the Illinois Highway Code (605 ILCS 5/2-101 through 5/2-220 and 5/4-101 through 5/4-5 11). The lands and premises hereinafter described and legally described as set out in Exhibits "A" and "B" which are attached hereto and incorporated by this reference, are required to resurface and install retaining walls as a part of

**DOCKETED**

the improvement of U.S. 24 from Illinois Route 9 to Pfeiffer Road in Bartonville, Illinois (hereafter the "Project").

2. Respondent, TP&W Acquisition Corporation, is a rail carrier as defined in the Illinois Commercial Transportation **Law (625 ILCS 5/18c-7101 et seq.)**, is engaged as a common carrier by railroad within Illinois and is subject to the jurisdiction of the Illinois Commerce Commission.
3. The land, rights, and other property hereinafter described are private property and the following entities appear to have an ownership interest, or some lesser interest, in the property described in Exhibits "A" and "B" attached hereto.
  - a) TP& W Acquisition Corporation, c/o Rail America, Inc., 4440 Broadway, Suite 200, San Antonio, Texas 78209;
  - b) The Bank of Nova Scotia, 18 1 West Madison, Suite 3700, Chicago, Illinois 60602;
  - c) Creditanstalt Corporate Finance, Inc, n/d/b/a Bank Austria Creditanstalt Corporate Finance, Inc, 2 Greenwich Plaza, Greenwich, Connecticut 06830; and
  - d) Chuck Bellemy, 13524 Third, Pekin, Illinois 61554.
4. The Project is a public work, is for public use and constitutes a public purpose, namely the improvement of FA Route 3 17 (US 24), in Peoria County, Illinois; it is in the public convenience and necessity that the Petitioner have and acquire a permanent easement in Parcel 407H206PE, and temporary easement

in Parcel 407H206TE, more particularly described in Exhibits "A" and "B", respectively, attached hereto.

5. The compensation to be paid by the Petitioner to the Respondent for this parcel or the interest therein or the form of conveyance cannot be agreed upon between the Petitioner and the Respondent and the Petitioner, therefore, is authorized, subject to the initial approval of the Illinois Commerce Commission, to proceed to acquire said lands, rights or other property through the exercise of the right of eminent domain under the Eminent Domain of the Laws of Illinois,

WHEREFORE, Petitioner prays the Illinois Commerce Commission enter an Order authorizing Petitioner to proceed with an action in eminent domain to acquire from Respondent, TP&W Acquisition Corporation, a permanent easement in Parcel 407H206PE, and a temporary easement in Parcel 407H206TE, more particularly described in Exhibits "A" and "B", respectively, all in accordance with Article VII (735 ILCS 5/7-101 through 5/7-129) of the Illinois Code of Civil Procedure.

THE DEPARTMENT OF  
TRANSPORTATION,  
STATE OF ILLINOIS, Petitioner

JAMES E. RYAN, ATTORNEY GENERAL

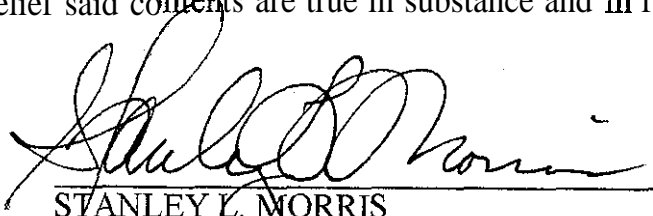
By: 

Stanley L. Morris, Special  
Assistant Attorney General

Stanley L. Morris  
Special Assistant Attorney General  
205 South Fifth Street, Suite 900  
Springfield, Illinois 62705-0255  
Telephone: (217) 753-1 133

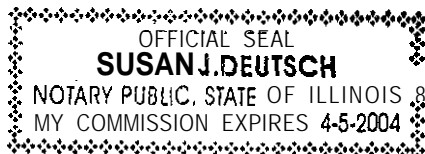
STATE OF ILLINOIS                    )  
  )  
COUNTY OF SANGAMON            )       ss

I, STANLEY L. MORRIS, of lawful age and being first duly sworn, depose and say that I am a Special Assistant Attorney General for the State of Illinois, that I have read the above and foregoing Amended Petition by me subscribed, have knowledge of the contents thereof and that on information and belief said contents are true in substance and in fact.

  
\_\_\_\_\_  
STANLEY L. MORRIS  
Special Assistant Attorney General

Subscribed and sworn to before me, a Notary Public, this &day of June, 2001

  
\_\_\_\_\_  
Notary Public



### **PROOF OF SERVICE**

The undersigned certifies that on 2 04/07/12 copy o f t h e foregoing document was deposited in the U.S. Mail, with postage prepaid, at Springfield, Illinois, plainly addressed to:

Mr. Todd Cecil  
TP& W Acquisition Corporation  
c/o Rail America, Inc.  
4440 Broadway, Suite 200  
San Antonio, Texas 78209

Mr. Frank Sandler  
The Bank of Nova Scotia  
600 Peachtree, Suite 2700  
Atlanta, GA 30308

Mr. Peter Wood  
c/o HypoVereinasbank  
622 Third Avenue  
New York, New York 10017

Mr. Chuck Bellemey  
13524 Third  
Pekin, Illinois 61554.

Susan J. Deutsch